

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DEBBY BARRETT**, on March 28, 2003 at 9 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Debby Barrett, Chairman (R)
Rep. Dee Brown, Vice Chairman (R)
Rep. Larry Jent, Vice Chairman (D)
Rep. Arlene Becker (D)
Rep. Sue Dickenson (D)
Rep. Carol Gibson (D)
Rep. Daniel S. Hurwitz (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)
Rep. Don Roberts (R)
Rep. Clarice Schrumpf (R)
Rep. Pat Wagman (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Norman Ballantyne (D)
Rep. Jonathan Windy Boy (D)
Rep. Frank Smith (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Joan Reiman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HR 4, 3/24/2003
Executive Action: SB 405 ACTION DEFERRED;
SB 455 TABLED; SB 252 NO ACTION

HEARING ON HR 4

Sponsor: REP. DAVE WANZANRIED, HD 68

Opening Statement by Sponsor:

REP. WANZANRIED said this bill supports Montana troops in Operation Iraqi Freedom including non-combatants. Over 1,000 troops from Montana are in the Persian Gulf and others are stationed elsewhere in support or replacement roles.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.9}

Proponents' Testimony:

Joe Foster, Administrator of Montana Veterans' Affairs, supported the bill.

Art Heffelfinger, Former Army Officer, suggested amending it to add the Coast Guard.

{Tape: 1; Side: A; Approx. Time Counter: 6.9 - 9.3}

Opponents' Testimony:

Mike Barrett, Former Town Councilman, opposed the bill.

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. WANZANRIED said this also acknowledges the families. He would amend this to have copies sent to all Montana military personnel; while it is in committee he will add any co-sponsors who want to sign on.

{Tape: 1; Side: A; Approx. Time Counter: 15.3 - 17.4}

EXECUTIVE ACTION ON SB 405

Motion: REP. LENHART moved that SB 405 BE CONCURRED IN.

Discussion:

REPS. BROWN, LEHMAN, JENT and LENHART questioned Ms. Heffelfinger, who expressed concern with fiscal impact. The interim committees meet only between sessions when there is no funding. SB 405 says agencies could not adopt certain rules

until their committees meet and pass on it. Suggested amendments would have agencies merely report, so that the committee would know that fee increases exceed the limit. There is some question who actually composes the committee. Interim committees serve until December 31, but do not actually meet after September 15 because the agency budget is closed. The election is in November but new committee appointments are not made until April. There is a dead space from January 5 until April. There may be only three members re-elected from the previous committee. The bill amends the Montana Administrative Process Act (MAPA). The Administrative Rule Review Committee is the interim committee; there is no longer a Code Committee. The interim committee can recommend rejecting a rule, **Ms. Heffelfinger** concluded.

REP. JENT asked if interim committees reviewed rules now. **Ms. Heffelfinger** explained the procedure. At the end of each session, a researcher and an attorney from legislative staff review their interim committee's functions. The attorney receives notice of proposed rules from ARM, reviews technical content to assure compliance with MAPA and that the substance not depart from statute. If it is controversial, they notify the chairman, who decides whether to put it on the agenda for discussion. A committee could specify they want to see every notice under their jurisdiction, but usually staff decides if committee needs to see the rule, **Ms. Heffelfinger** said.

REP. A. OLSON said interim committees are done by mid-September. He liked the bill's intent but agreed to let the agency first adopt the rule, and then their committee would be notified. **REP. B. OLSON** said that the sponsor could not give one example at the hearing of why the bill is needed. **CHAIRMAN BARRETT** said the sponsor stated that the federal level wants this, but noted that they have more funding. **REP. LENHART** asked if there are problems with the present system. He expressed the frustration of legislators who see rules adopted of which they were unaware. **REP. BROWN** noted that the new interim audit committee does meet during regular session. She spoke for **REP. YOUNKIN** in favor of the bill.

REP. DICKENSON asked if a fee were proposed and the interim committee notified, if they could meet if necessary. **Ms. Heffelfinger** replied that their schedule is based on a study plan; they usually meet every two months, depending on workload. Their chair can call a meeting, but there is no funding for it. A conference call would be suitable. Her concern was that a rule may not take effect until it is reviewed, as the bill is written. If the chairperson did not call the committee into session, the rule would have to wait. She said the present system has worked.

CHAIRMAN BARRETT said she shares the concern, and asked if fee changes didn't take a while to go through. She suggested changing the bill to read "the committee has been informed." She asked if the same staffer could notify committee by mail and **Ms. Heffelfinger** said that would work.

Motion: REP. BARRETT moved that SB 405 BE AMENDED (CONCEPTUAL AMENDMENT) .

Discussion:

REP. BARRETT said the amendment would say a rule may not take effect before the interim committee has been informed. REP. JACOBSON favored that; legislators want to be apprised of administrative rules that would affect bills they may sponsor. He said that agencies take latitudes with policies, but legislators cannot micro-manage their legislation.

Vote: Motion carried 19-0 with REPS. BALLANTYNE, SMITH, WINDY BOY, and YOUNKIN voting by proxy.

Motion/Vote: REP. A. OLSON moved SB 405 BE CONCURRED IN AS AMENDED. Motion carried 17-2 with REPS. JENT and OLSON voting no. Proxies were received from REPS. BALLANTYNE, SMITH, YOUNKIN and WINDY BOY.

CHAIRMAN BARRETT said she will ask REP. YOUNKIN to carry this bill in the House, then said this bill would not be reported out of committee until the amendments are drafted. REP. YOUNKIN returned at this time and REP. JACOBSON stepped out of the room.

EXECUTIVE ACTION ON SB 455

Motion: REP. OLSON moved that SB 455 BE CONCURRED IN.

Discussion:

REP. HURWITZ said this bill bothers him; he wants to get the petition-people completely away from the polls. **Ms. Heffelfinger** gave the requested information about constitutional issues; petition-people cannot be banned unless they are obstructing, according to a 1989 Supreme Court ruling overturning an Oregon law. REP. JENT spoke to First Amendment rights to hold a forum.

Motion/Vote: REP. OLSON moved that SB 455 BE TABLED. Motion carried 14-5 with REPS. BARRETT, BECKER, DICKENSON, GIBSON, and

JACOBSON voting no. Proxies were received from REPS. BALLANTYNE, SMITH, JACOBSON And WINDY BOY.

EXECUTIVE ACTION ON SB 252

Motion: REP. GIBSON moved that SB 252 BE CONCURRED IN.

Discussion:

REP. A. OLSON asked when the voter database would be ready; Ms. Heffelfinger said by 2006. He said if this goes into effect now without the database, it's counter-productive; he suggested the effective date be when the database is running. He suggested a conceptual amendment that ballots should be mailed to the local address on the application, not out of state "forever and ever."

REP. JENT said he has trouble fooling with the address and the process; the Secretary of State's office supports it and voters should have ballots sent to wherever they want them to be mailed.

REP. OLSON said the idea is to get voters to vote, but they should be residents. CHAIRMAN BARRETT said the Secretary of State's office believed this would reduce fraud. REP. YOUNKIN worried that mail forwarding takes time; maybe the voter could certify that their legal address is still in Montana. REP. BECKER replied that in HB 190 (if the Senate does not change this) the voter must include identification with the absentee ballot; maybe voters could check off a box to verify that address is the same. REP. YOUNKIN will discuss an amendment with the Secretary of State. REP. A. OLSON agreed to that.

REP. LEHMAN asked if ballots are sent registered mail; they are not. REP. DICKENSON asked why the database should be running first. REP. A. OLSON replied that the address voters list is a permanent decision. REP. GIBSON recalled that the Clerk and Recorders did not object to the bill, whether using a card file or the database. REP. LENHART added that they said this bill would be a time saver. CHAIRMAN BARRETT asked for the motion to be withdrawn.

Motion was withdrawn. REP. YOUNKIN added she will discuss the proposed amendment with SEN. SQUIRES.

Ms. Heffelfinger gave out an amendment for HR 4, which REP. WAGMAN had requested earlier.

EXHIBIT(sth66a01)

{Tape: 1; Side: A; Approx. Time Counter: 17.4 - 66}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 5}

ADJOURNMENT

Adjournment: 10:10 A.M.

REP. DEBBY BARRETT, Chairman

JOAN REIMAN, Secretary

DB/JR

EXHIBIT (sth66aad)